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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Tehama)

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THE PEOPLE,

Plaintiff and Respondent,

v.

SPIKER RYAN CAHALAN,

Defendant and Appellant.

C087055

(Super. Ct. No. 17CR003013)

Defendant Spiker Ryan Cahalan pleaded guilty to possessing a controlled substance, admitted to serving a prior prison term, and was sentenced to a four-year aggregate term. On appeal, he challenges the amount of custody credits awarded at sentencing. He contends the trial court should have awarded credit for a 180-day term served prior to sentencing, which was imposed for a violation of his postrelease community supervision, or PRCS. Defendant maintains the PRCS violation was based on the same conduct that underlies his current conviction, and thus he was entitled to

credit for those 180 days. Finding that the PRCS violation arose out of different conduct, we will affirm the judgment.

### BACKGROUND<sup>1</sup>

On March 17, 2017, an officer saw defendant driving, and after discovering defendant had a felony arrest warrant, pulled him over. Defendant gave a false name, refused to turn off his car, and when ordered out of his car, drove off. When he was finally subdued, officers found a hypodermic syringe, methamphetamine, a semi-automatic pistol, and marijuana.

A year later, defendant pleaded guilty to one count of possessing a controlled substance with a firearm and admitted serving a prior prison term. In exchange, the remaining charges were dismissed.

On March 19, 2018, he was sentenced to a four-year aggregate term. During sentencing, defense counsel noted that in March 2017, defendant had been sentenced to a 180-day term for a PRCS violation. Counsel noted it arose “from the same set of facts that present [defendant] with the conviction here today . . . .” Counsel asked that the 180 days be credited toward the sentence being imposed.

The trial court denied the request: “Well, here is the problem. He can’t get credits for both . . . . It is the same as the parole violation. So, it is a separate offense.” The trial court awarded 560 days of custody credit (280 actual; 280 conduct), which did not include the 180 days from the PRCS violation.

The probation report had reflected that on March 17, 2017 (the day defendant was pulled over and found with contraband) there was a “Violation of PRCS,” with an accompanying 180-day jail term imposed on May 16, 2017.

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<sup>1</sup> The parties stipulated to a factual basis in the sheriff’s report. The facts are taken from the probation report’s summary of that report.

## DISCUSSION

On appeal, defendant challenges the failure to award credit for the 180 days served for the PRCS violation. He argues his PRCS violation arose from the same conduct underlying his current conviction, and thus he is entitled to that credit.

The People allow that defendant would be entitled to the credit if his PRCS violation arose from the same conduct. But, the People maintain, defendant has failed to establish that the PRCS violation arose from the conduct underlying his current conviction. Indeed, when defendant was pulled over, he had an existing felony arrest warrant.

To that, defendant avers the record is conclusive that his PRCS violation occurred on the same date he was pulled over. The probation report shows the PRCS violation occurred on the same day as his arrest, and therefore it was based on the same conduct.

To solve this mystery, we ordered the record augmented. On March 29, 2016—nearly a year before defendant was pulled over—a petition to revoke his PRCS was filed. It alleged that on February 19, 2016, defendant “was released from the Tehama County Jail and failed to inform his probation officer of his correct residence address.” On May 16, 2017, at the preliminary hearing for his current charge, defendant admitted to the violation based on his failure to inform his probation officer of his address. He was then sentenced to 180 days in jail.

Thus, once augmented, the record makes clear the PRCS violation arose from different conduct than that underlying the current offense. Accordingly, defendant was not entitled to credit for the 180 days served, and the trial court properly withheld those credits.

DISPOSITION

The judgment is affirmed.

/s/  
BLEASE, Acting P. J.

We concur:

/s/  
HOCH, J.

/s/  
RENNER, J.